

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CARL MCDANIEL,

Plaintiff,

v.

Case No. 20-cv-1919-bhl

WISCONSIN DEPARTMENT
OF CORRECTIONS, et al.,

Defendants.

ORDER

Plaintiff Carl McDaniel, a Wisconsin state prisoner who is representing himself, filed this lawsuit, along with a motion for leave to proceed without prepayment of the filing fee. Dkt. Nos. 1-2. The cost of filing a civil lawsuit in this district is \$400.00, which includes the \$350.00 statutory filing fee and a \$50.00 administrative fee. Under the Prison Litigation Reform Act (PLRA), a prisoner-plaintiff proceeding without prepayment of the filing fee is only required to pay the statutory filing fee of \$350.00; the \$50.00 administrative fee does not apply. *See* 28 U.S.C. §1915(b)(1).

In support of his motion for leave to proceed without prepayment of the filing fee, McDaniel filed a certified copy of his prisoner trust account statement for the six-month period immediately preceding the filing of the complaint. *See* Dkt. No. 10. A review of this information shows that McDaniel had an end balance of \$10,264.97 in his regular account and \$2,977.73 in his release account. *Id.* McDaniel, therefore, has sufficient funds in his account to pay the civil case filing fee. Accordingly, the Court will deny his motion for leave to proceed without prepayment

of the filing fee. To proceed with this lawsuit, McDaniel must pay the \$400 civil case filing fee in full.

The PLRA also provides that, if a prisoner files more than three actions or appeals which are dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, the prisoner will be prohibited from bringing any actions without prepayment of the filing fee, unless the prisoner is in imminent danger of serious physical injury. 28 U.S.C. §1915(g). In the event that this action is later dismissed for any of the above reasons, it may have an impact on McDaniel's ability to bring actions without prepayment of the filing fee. Accordingly, the Court will give McDaniel an opportunity to voluntarily dismiss this action to avoid incurring a "strike" under §1915(g).

Notice to Plaintiff: If you do not wish to proceed with this action to avoid incurring a "strike" under §1915(g), you must file a letter with the Clerk of Court stating that you do not wish to prosecute this civil action. If you write such a letter, this case will be dismissed without prejudice. Voluntary dismissal will not be counted as a "strike" under §1915(g).

IT IS THEREFORE ORDERED that the plaintiff's motion for leave to proceed without prepayment of the filing fee (Dkt. No. 2) is **DENIED**. To proceed with this lawsuit, the plaintiff must submit the \$400 civil case filing fee in full to the Clerk of Court by **January 27, 2021**. Failure to comply with this order will result in dismissal of this case on the next business day without prejudice and without further notice or hearing.

Dated at Milwaukee, Wisconsin this 13th day of January, 2021.

s/ Brett H. Ludwig

Brett H. Ludwig
United States District Judge